

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,)	No. 61563-7-I
)	
Respondent,)	
)	
v.)	
)	
TRAVIS EDWARD JAMIESON,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: June 15, 2009
)	

Ellington, J. — Travis Jamieson was convicted of residential burglary, first degree trafficking in stolen property, and bail jumping. He appeals his conviction for residential burglary only. He contends that the court abused its discretion in excluding certain evidence and that the evidence was insufficient to convict. Finding no error, we affirm.

BACKGROUND

In April 2006, the residences of Terry and Christina Rothrock, Ed and Diane Lundberg, and Greg and Holly McDonald, all of Mill Creek, Washington, were burglarized.

The Rothrock residence was burglarized on April 16. A number of items were missing, including many items of jewelry. Some of the stolen jewelry was pawned on

April 19 by Bonnie McAllister. Surveillance video from the pawn shop revealed McAllister was accompanied by Travis Jamieson, her then-boyfriend. A cousin of Jamieson stated that in the late morning of April 16, he took Jamieson to Tacoma.

The Lundbergs were burglarized the next day. Around 10:30 to 11:00 a.m., two witnesses saw a car. They described the car as white, old looking, possibly a late 80s Honda Accord, driven by a white male in his 20s. One of the witnesses, Leah Garrison, recorded the license number, which later was determined to belong to a white Honda Accord registered to McAllister. Around noon, Jamieson asked his friend Rachel McNary to pawn several items of jewelry for him, saying he did not have his identification. The items were subsequently identified as belonging to the Lundbergs.

The McDonalds were burglarized on April 20. Jerry Cook, a neighbor, saw a young man come from the area of the McDonalds' backyard, run across his driveway, climb a fence to a neighboring school and get into a little white car, in the style of mid-90s Honda or Mazda. Shortly thereafter Cook saw the car in his driveway near the McDonalds' backyard. The man got out of the car and started rummaging in some bushes. When Cook yelled, the man got back in the car and took off. In the bushes, Cook found a pillowcase full of jewelry, DVDs, a camera, and other items belonging to the McDonalds.

On April 26, 2006, police officers stopped McAllister in her white Honda Accord and arrested her for driving under the influence. Jamieson, who a passenger in the car, was allowed to leave. Tests of McAllister's blood were positive for

methadone, diazepam, oxycodone, nordiazepam, and marijuana. A search of her car yielded items belonging to the Rothrocks, the Lundbergs, and the McDonalds.

Police informed McAllister that her car had been associated with a number of residential burglaries. Initially she claimed she lent her car to others to use in committing burglaries. She later stated that she and two men, Jared and Carlos, had burglarized several homes in the Mill Creek area. She explained they would find homes where they believed residents were absent, and she would knock on the door. If nobody answered, she would return to the car while one or both of the men entered the house. If someone answered the door, she would ask some questions, such as directions to the freeway, and then leave. Sometimes Jamieson came along and acted as a lookout.

The State charged Jamieson with three counts of residential burglary, one count of trafficking stolen property and one count of bail jumping.¹ McAllister pleaded guilty to trafficking in stolen property and agreed to testify against Jamieson. McNary was charged with second degree possession of stolen property. She pled guilty.

At trial, McAllister testified she had committed burglaries with Jamieson and that sometimes he borrowed her car to do burglaries by himself. She testified they usually took jewelry and DVDs, which they pawned or exchanged for drugs. McAllister was unable to identify what houses they burglarized or when they did so. Jamieson presented evidence that he was in Tacoma the day of the Rothrock

¹ Jamieson waived jury trial on the bail jumping charge and was convicted.

burglary and that McAllister wanted Jamieson to suffer because she believed he was unfaithful.

The jury was unable to reach verdicts on the Rothrock and McDonald burglaries, but convicted Jamieson of the Lundberg burglary count and trafficking in stolen property. Jamieson appeals the burglary conviction.

DISCUSSION

Evidentiary Ruling

Jamieson contends the court erroneously excluded evidence of McAllister and McNary's pawning activity. Admission of evidence is within the trial court's sound discretion and will not be disturbed on review absent a showing of abuse of discretion,² which occurs when the decision is manifestly unreasonable or is based on untenable grounds or reasons.³

Jamieson sought to question Detective Sean Connor about pawn slips signed by McAllister and McNary unrelated to the charged burglaries. The defense had not asked McAllister or McNary about them, and the State contended the slips had no known relationship to any crime. Jamieson contended the receipts were for stolen jewelry and would tend to show that both McAllister and McNary were involved in burglaries independent of Jamieson, thus impeaching their credibility. The State objected on relevance, foundation, and ER 404(b) grounds. The court excluded the evidence under ER 404(b), ruling that the line of questioning would constitute

² State v. Ellis, 136 Wn.2d 498, 504, 963 P.2d 843 (1998).

³ State v. Michielli, 132 Wn.2d 229, 240, 937 P.2d 587 (1997).

improper impeachment because McAllister and McNary had not been questioned about their pawning activity, and because the evidence to be elicited was otherwise irrelevant.

Jamieson's contention rested on the assumption that the items pawned were stolen. But Detective Connor specifically stated that he did not know whether the items were stolen. The defense provided no basis for its contention that the items pawned by McAllister and McNary were stolen.

That McAllister and McNary had pawned items not tied to these burglaries tends to prove nothing about the truth or falsity of their testimony. The proffered evidence was therefore irrelevant. The court did not abuse its discretion in excluding it.⁴

Sufficiency of the Evidence

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt.⁵ Here the evidence clearly shows the burglaries occurred; a man was involved; Jamieson's then-girlfriend was McAllister, whose car was used; the items were pawned by McAllister and McNary; and both identified Jamieson as the source of the items.

Certainly there were issues as to McAllister's credibility, but credibility determinations are the province of the jury.⁶ Seen in the light most favorable to the

⁴ Because we agree that the proffered evidence was irrelevant, we need not address the other grounds for the court's ruling.

⁵ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

State, McAllister's testimony establishes that she lent only her car to Jamieson and that the items stolen from the Lundbergs had been placed there by Jamieson. Other evidence established that McAllister's car, driven by a young white male, was seen in the cul-de-sac where the Lundbergs live around 10:30 to 11:00 a.m. on April 17, 2006, and that at around noon the same day, Jamieson asked McNary to pawn jewelry items stolen from the Lundberg residence on his behalf.

The evidence was sufficient for the jury to find beyond a reasonable doubt that Jamieson burglarized the Lundberg residence.

Affirmed.

Edington, J

WE CONCUR:

Dwyer, A.C.J.

Grosse, J

⁶ State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).